

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY



Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864

DEC 17 1997

December 9, 1997

Honorable Carol Owens
Chair, Committee on Housing
Wisconsin Assembly
Room 105 West, State Capitol
Madison, WI 53702

Dear Representative Owens:

Carol

Re: Clearinghouse Rule No. 96-164

On November 21, 1997, you requested a 30-day extension of your review period for the above-referenced rule in order to allow the Department to present a modification to the rule.

In response to concerns raised by the Manufactured Housing Association, the Department proposes an amendment to the proposed rule. Specifically, section Adm 66.03, relating to financial ability, is revised to allow the use of either bonding or financial statements. Attached is a copy of the modified rule for your review.

Please advise whether the enclosed administrative rule is acceptable to your Committee.

Sincerely,

Mark D. Bugher
Secretary

PROPOSED ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration proposes an order to create Chapter Adm 66.

Analysis prepared by the Department of Administration:

Statutory Authority: ss. 16.004(1) and 218.01(5)(c), Stats.

Statutes Interpreted: ss. 218.01(5), 218.11(3), Stats.

Section 218.101, Stats., was created in 1991 Wisconsin Act 269, authorizing the Department of Administration to administer subchapter VI of Chapter 218 as it relates to manufactured/mobile home dealers and salespersons engaged in the sale of primary housing units. This Chapter establishes the financial qualifications for applicants for manufactured/mobile home dealer licenses.

Manufactured/mobile home dealers have been regulated under the former chapter Trans 140 since the program was transferred to the Department of Administration in July, 1992. Chapter Trans 140 is not being repealed by the Department because it was amended by the Department of Transportation in March 1996, and now applies only to dealers that sell recreational vehicles, as those dealers continue to be licensed by the Department of Transportation, Division of Motor Vehicles.

TEXT OF RULE:

SECTION 1: Chapter Adm 66 is created to read:

Chapter Adm 66

MANUFACTURED HOME DEALER FINANCIAL ELIGIBILITY

Adm 66.01 PURPOSE AND SCOPE. This chapter is promulgated under the authority of ss. 16.004(1) and 218.01(5)(c), Stats., to implement s. 218.11, Stats. This chapter applies to any sole proprietorship, partnership, or corporate entity applying for or holding a Wisconsin dealer's license under ss. 218.11 and 218.12, Stats.

Adm 66.02 DEFINITIONS. In this chapter: (1) "Department" means the department of administration.

(2) "Discounted" means an asset which is not considered at full value when determining financial statement net worth.

(3) "Financial statement" means a balance sheet showing assets, liabilities and net worth.

(4) "GAAP" means generally accepted accounting principles.

(5) "Intangible asset" means an asset which does not have a readily determined value, such as goodwill, and is not generally offered for sale.

(6) "Major liability" means a liability equal to or greater than 10% of the total liabilities listed on the financial statement.

(7) "Manufactured home" or "home" means a mobile home which is transportable in one or more sections, which in the traveling mode, is more than 8 feet 6 inches in width or more than 45 feet in length, or when erected on site, is more than 340 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, electrical systems contained in the manufactured home. Calculations used to determine the number of square feet in a structure shall be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions shall include all expandable rooms, cabinets, and other projections contacting the interior space, but do not include bay windows. For purposes of this chapter, the measurement of length shall be determined in accordance with s. 348.07(3), Stats.

(8) "Manufactured home dealer" or "dealer" means any of the following: (a) A mobile home dealer as set forth in s. 218.10(3), Stats., but does not include:

1. A recreational vehicle dealer as defined in Trans 142.02(7).
2. Governmental units or agents performing their official duties.
3. Advertising media and agents performing their official duties.
4. A licensed realtor involved in a manufactured home sale solely as a result of a real estate transaction including the manufactured home and the real estate site on which the manufactured home is located.

(b) A person not excluded by par. (a) who sells two or more new or used manufactured homes in any one calendar year.

(9) "Mobile home" has the meaning given in s. 340.01(29), Stats.

(10) "Net worth" means the difference between the asset and liability values on a balance sheet. Negative net worth is the excess of liabilities over assets.

(11) "Pro-forma statement" means a statement presented anticipating some event or events which will occur in the future.

(12) "Substantial portion of the assets" means a value greater than 30% of all assets.

Adm 66.03 SECURITY; FORMS AND TYPES. (1) The only acceptable forms of security to fulfill the financial ability requirement of s. 218.11(3), Stats., are as follows:

(a) Surety bond. The bond shall be filed on a form prescribed by the department and issued by a bonding company licensed by this state. The bond shall be payable for the benefit of any person sustaining a loss because of an act of the licensee constituting grounds for the suspension or revocation of a license under s. 218.11(6).

(b) Balance sheet information. The balance sheet shall be prepared in accordance with GAAP and be dated not more than 90 days prior to the date of application. A small business as defined in s. 227.114(1)(a), Stats., which does no interim financial reporting may submit a balance sheet from the close of the businesses' most recent fiscal year. The balance sheet shall contain all of the following:

1. Assets.
2. Liabilities.
3. Net worth.
4. The signature of one of the corporate officers, partners or owners.
5. The name of any bank or financial institution used by the applicant.
6. A schedule of securities owned, if any.
7. A schedule of all real property held, its fair market value, book value, and the amount and terms of any indebtedness.

(2) Pro-forma statements shall not be accepted.

(3) If the department determines that there has been a misstatement on a financial statement, the department may deny or revoke the license.

Adm 66.04 ASSET REPORTING. (1) VALUATION. The financial statement shall present assets in terms of historical cost or book value of assets. In lieu of a statement presented with historical cost of fixed assets or book value of assets, the department may consider a statement presenting fair market value information of fixed assets if clearly labeled and accompanied by an appraisal report of a certified appraiser or tax appraisal.

(2) CASH. Whenever a substantial portion of the assets of an entity is in the form of cash, confirmation of the amount is required from the financial institution holding the cash.

(3) RECEIVABLES. When a substantial portion of the assets of an entity are in the form of receivables from another individual, partnership, or corporation, all or part of the receivables shall be discounted in considering the net worth of the applicant. In order to evaluate the quality of a receivable, a financial statement from the individual, partnership or corporation shall be required. In no case will the department discount factory receivables.

(4) INVENTORY. The financial statement shall include the number of units in inventory and the number of units floor planned or used for loan collateral.

(5) CERTAIN ASSETS NOT TO BE CONSIDERED. The department shall not consider the following assets in evaluating the financial statement of an applicant:

(a) As specified in s. 815.20, Stats., equity in homestead property up to \$40,000.

(b) As specified in s. 815.18(3), Stats., items of personal property which are exempt from execution.

(c) Any intangible asset values.

(d) Leasehold improvements.

(e) All other assets subject to prior liens, security arrangements or other pledges.

Adm 66.05 LIABILITY REPORTING. (1) REPORTING. All liabilities and contingent liabilities shall be reported. The terms, amounts and conditions of any major liabilities shall be separately scheduled. The schedule shall list the names of individuals or institutions that hold the debt, the amount of the debt and the terms of repayment. A list of customers and the amounts on deposit with the dealer shall be attached to the financial statement.

(2) **RATIO ANALYSIS.** A ratio analysis comparing liabilities with assets shall be used to evaluate a dealer's financial potential. If current liabilities exceed current assets, the department may deny, suspend or revoke a dealer's license. An exception to this subsection shall be made when the current ratio is less than 1 to 1 solely due to the manner the dealership has chosen to account for leasing operations.

Adm 66.06 NET WORTH REPORTING. (1) **TREASURY STOCK.** Treasury stock held by a corporation shall be reported separately on the balance sheet and clearly labeled as treasury stock.

(2) **PREVIOUS PROFIT.** Profit from the previous period of operations shall be reported separately in the net worth section of the balance sheet.

(3) **NEGATIVE NET WORTH.** A financial statement with a negative net worth is evidence of a lack of financial ability to conduct business and the license shall be denied or revoked.

Adm 66.07 TYPES OF ENTITIES. (1) **SOLE PROPRIETORSHIPS.** A sole proprietorship shall report the entire value of assets jointly owned by the sole proprietor and by one or more persons on its financial statement. The financial statement shall be signed by the sole proprietor.

(2) **PARTNERSHIPS.** Partnerships shall submit a statement for the partnership as a whole and individual statement for each of the general partners. If the partnership agreement provides for anything other than an equal sharing by the partners, it shall be prominently noted on the statements. The provisions of sub. (1) relating to the listing of jointly owned assets also apply to this subsection.

(3) **CORPORATIONS.** A corporation shall submit a financial statement. A financial statement of a controlling corporation, parent corporation, or an interlocking corporation may be submitted but shall not be substituted for the financial statement of the corporate

(4) **LIMITED LIABILITY COMPANIES.** A limited liability company shall submit a financial statement and a copy of its currently effective operating agreement, or if no operating agreement is in effect, or if the operating agreement does not list each member's contribution, a statement of the value of each member's contribution to the limited liability company.

Adm 66.08 COPIES REQUIRED. Dealers shall file their statements in duplicate. The department shall forward the duplicate copy to the co-licensor, the department of financial institutions.

Adm 66.09 GENERAL REQUIREMENTS. (1) OPERATING STATEMENT. The department may require a dealer to submit an income statement or other financial information for any of the following:

- (a) An initial license.
- (b) Renewal of a license.
- (c) A change in the licensee.
- (d) If any questions arise regarding the dealer's financial condition.

(2) ACCEPTABLE NET WORTH. (a) The following table shall be used in determining the acceptable minimum level of net worth of an applicant:

Annual Home Sales Volume

<u>Number of Homes Sold Per Year</u>	<u>Amount</u>
New Dealer	\$25,000
1-20	\$25,000
21-50	\$40,000
51-75	\$65,000
76-up	\$100,000

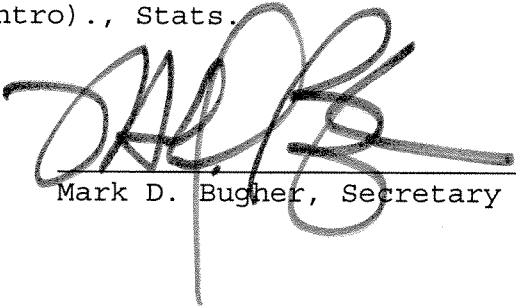
(b) The department may deny the license of any applicant who fails to meet the net worth criteria set out in par. (a).

Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the department has determined that the proposed rule will not have any adverse impact on small businesses.

This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro)., Stats.

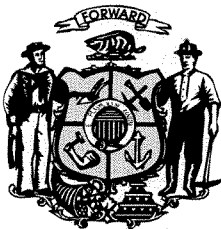
Dated: 12/12/97



Mark D. Bugher, Secretary

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY



12-9

DEC 05 1997

Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864

December 1, 1997

The Honorable Carol Owens
105 West, State Capitol
Madison, Wisconsin

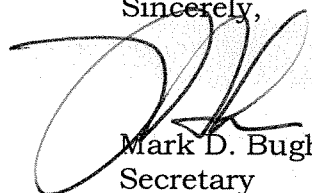
Dear Representative Owens: *Carol:*

Thank you for your letter of November 21st concerning Clearinghouse Rule 96-164.

I understand that members of your staff have been working with Lee Martinson, the Administrator of our Division of Housing, on this rule change. We are aware that the review process for this rule will be extended an additional 30 days. If the department can provide any further information or assistance the Assembly Housing Committee, please do not hesitate to contact my office or Mr. Martinson directly.

Again, thank you for your letter.

Sincerely,


Mark D. Bugher
Secretary

Cc: Mr. Lee Martinson, Administrator
Division of Housing

12-2-97 DEC 02 1997 SAVE



Wisconsin Manufactured Housing Association

Ross Kinzler, Executive Director

202 State Street, Suite 200

Madison, WI 53703-2215

E-mail: wmha1@itis.com

608-255-3131

608-255-5595 Fax

November 26, 1997



Rep. Carol Owens
Room 105 West, State Capitol
Madison, WI 53702

Dear Rep. Owens:

Enclosed find draft language we are suggesting to allow bonding for manufactured home dealers. I have forwarded this language to Lee Martinson and the Division of Housing.

We assume Mr. Martinson will provide the Housing Committee with a final version of such language. Please notify us when this language is submitted.

Thank you for your prompt response and assistance in this matter. Your willingness to support extension of the Housing Committee review period of ADM 66 is greatly appreciated.

Sincerely,


Ross Kinzler
Executive Director

SUGGESTED LANGUAGE

Amend Adm. 66.03 to read as follows:

Adm 66.03 SECURITY; FORMS AND TYPES. (1) The only acceptable forms of security to fulfill the financial ability requirement of s. 218.11 (3), Stats., are as follows:

(a) *Surety bond*. The bond shall be filed on a form prescribed by the department and issued by a bonding company licensed by this state. The bond shall be payable in the name of the department for the benefit of any person who sustains a loss because of an act of the licensee constituting grounds for the suspension or revocation of a license under s. 218.11 (6).

(b) *Balance sheet information*. The balance sheet shall be prepared in accordance with GAAP and be dated not more than 90 days prior to the date of application. A small business as defined in s. 227.114 (1) (a), Stats., which does no interim financial reporting may submit a balance sheet from the close of the business' most recent fiscal year. The balance sheet shall contain all of the following:

1. Assets.
2. Liabilities.
3. Net worth.
4. The signature of one of the corporate officers, partners or owners.
5. The name of any bank or financial institution used by the applicant.
6. A schedule of securities owned, if any.
7. A schedule of all real property held, its fair market value, book value, and the amount and terms of any indebtedness.
8. Pro-forma statements shall not be accepted.
9. If the department determines that there has been a misstatement on a financial statement, the department may deny or revoke the license.



P.O. Box 8953, State Capitol
Madison, Wisconsin 53708-8953
(608) 267-7990 • Toll-Free (800) 362-9472

144 County Road C
Oshkosh, Wisconsin 54904
(414) 589-4262

CAROL OWENS

WISCONSIN STATE REPRESENTATIVE

TO: Assembly Committee on Housing Members
FROM: Representative Carol Owens, Chairperson
DATE: November 21, 1997
RE: **CLEARINGHOUSE RULES**

As you may recall, last month we had the following three Clearinghouse Rules referred to the Housing Committee:

Clearinghouse Rule 96-164, relating to financial qualifications of manufactured home dealer license applicants.

Clearinghouse Rule 96-165, relating to manufactured home dealer trade practices, facilities and records.

Clearinghouse Rule 96-166, relating to length, expiration date and fee for licenses issued to manufactured and mobile home dealers and salespersons and for registration plates issued to dealers.

Our deadline for committee action on these rules is **November 24, 1997**. I was recently contacted by the Wisconsin Manufactured Housing Association (WMHA) about some concerns they have on two of these rules (see attached letter from Ross Kinzler). One of the concerns (**CHR 96-166**) has already been addressed by the Department of Administration (see attached letter from Secretary Bugher). I have asked the Department of Administration for an additional 30 day review period (see copy attached) for **CHR 96-164** so that we can address the concern of WMHA.

If you have any questions, please feel free to contact me.

CO:jfd

Attachments

WI Manufactured Housing Association



**Scott E. Slattery
Legal Counsel**

**202 State Street
Suite 200
Madison, WI 53703**

**(608) 255-3131
FAX: (608) 255-5595**



Wisconsin Manufactured Housing Association

Ross Kinzler, Executive Director

202 State Street, Suite 200

Madison, WI 53703-2215

E-mail: wmha1@itis.com

608-255-3131

608-255-5595 Fax

November 19, 1997



Rep. Carol Owens
Room 105 West, State Capitol
Madison, WI 53702

Dear Rep. Owens:

The Division of Housing has forwarded three rules for Housing Committee review. They are ADM 66, ADM 67, & ADM 68. We wish to raise two concerns.

First, current law (TRANS 140.022) allows dealers to submit a bond or letter of credit as evidence of financial soundness. This measure protects consumers from undercapitalized dealers. The newly proposed rule, ADM 66.04, eliminates the bond or letter of credit requirement and instead requires disclosure of detailed business information to determine the net worth of a dealer. Our members are very uncomfortable with releasing detailed and private financial statements. In addition, many of our members have their businesses structured for tax purposes in a way that legally constrains their net worth on paper. In some cases, a financially sound member of our association could lose their dealer license due to their "insufficient" net worth. We ask that the rule be amended to allow licensees to choose:

- 1) A bond.
- 2) A letter of credit.
- 3) A letter certifying a minimum net worth amount from a C.P.A.
- 4) Disclosure of net worth up to the minimum in ADM 66.09 (2).
- 5) A statement of value of fixed assets up to the minimum in ADM 66.09 (2).

Second, ADM 68.04 establishes a fee schedule which is contrary to s. 218.12 (2) (c) Stats. This statute provides for a maximum annual fee of \$4.00 for manufactured home salespersons. The proposed rule, ADM 68.04, establishes a fee of \$13.00 annually -- which exceeds the fee limitation in 218.12 (2) (c).

We respectfully request a hearing to address the above concerns.

Sincerely,

Ross Kinzler
Executive Director



CAROL OWENS

WISCONSIN STATE REPRESENTATIVE

November 21, 1997

Mr. Mark D. Bugher, Secretary
Wisconsin Department of Administration
101 East Wilson Street
HAND-DELIVER

Dear Secretary Bugher:

The Assembly Housing Committee currently has **jurisdiction over Clearinghouse Rule 96-164** – AN ORDER to create chapter Adm 66, relating to financial qualifications of manufactured home dealer license applicants.

I am writing to request that your office meet with the Assembly Housing Committee to review Clearinghouse Rule 96-164. The purpose of this request is to extend the Assembly review process for the rule an additional 30 days (**pursuant to s. 227.19(4)(b)a., Stats.**).

Should you have any questions regarding this matter, please don't hesitate to contact me.

Sincerely,

Carol Owens

CAROL OWENS
State Representative
53rd Assembly District

CO:jfd

cc: Assembly Housing Committee Members
Mary Matthias, Legislative Council Attorney

Lee Martinson 11/20
Division of Housing
7-4889
okay with request
from WMHA.



CAROL OWENS

WISCONSIN STATE REPRESENTATIVE

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(608) 267-7990 • Toll-Free (800) 362-9472

144 County Road C
Oshkosh, Wisconsin 54904
(414) 589-4262

TO: Assembly Committee on Housing Members
FROM: Representative Carol Owens, Chairperson
DATE: October 23, 1997
RE: **CLEARINGHOUSE RULES**

Today, the following rules were referred to the Assembly Committee on Housing:

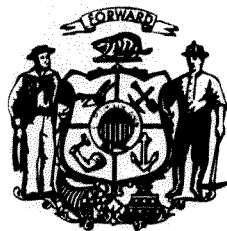
Clearinghouse Rule 96-164, relating to financial qualifications of manufactured home dealer license applicants.

Clearinghouse Rule 96-165, relating to manufactured home dealer trade practices, facilities and records.

Clearinghouse Rule 96-166, relating to length, expiration date and fee for licenses issued to manufactured and mobile home dealers and salespersons and for registration plates issued to dealers.

Please contact my office (267-7990) if you would like a copy of the rules. The deadline for committee action on these rules is **November 24, 1997**. If you are interested in requesting a hearing or submitting comments on any of these rules, please do so prior to the deadline date.

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY



Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864

October 16, 1997

Honorable Fred A. Risser, President
Wisconsin Senate
119 M.L. King Jr. Blvd., Rm. 102
Madison, WI 53702

Honorable Ben Brancel, Speaker
Wisconsin Assembly
211 West, State Capitol
Madison, WI 53702

Dear Senator Risser and Representative Brancel:

Re: Clearinghouse Rules Nos. 96-164, 96-165 and 96-166

Enclosed, in final draft form are Chapters Adm 66, 67 and 68 relating to Manufactured Home Dealer Financial Eligibility; Manufactured Home Dealer Trade Practices, Facilities and Records; and Licensing Periods and Fees for Manufactured Home Dealers and Salespersons.

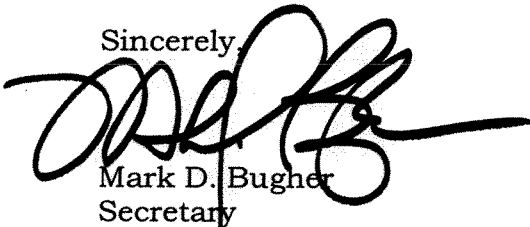
Section 218.101, Stats., created in 1991 Wisconsin Act 269, authorizes the Department of Administration to administer subchapter VI of Chapter 218 as it relates to manufactured/mobile home dealers and salespersons engaged in the sale of primary housing units. In July, 1992, the Mobile Home Program was transferred from the Department of Transportation to the Department of Administration. The proposed rules address the statutory responsibilities and obligations of the Department under Chapter 218, Wis. Stats., and adopt the standards from the rules originally created by the Department of Transportation for the regulation of the mobile home program. Regulations for financial qualifications for applicants for mobile home dealer licenses were delineated in Chapter Trans 140; the regulations for mobile homes dealer trade practices, facilities and records were enumerated in Chapter Trans 141; and licensing periods and fees for mobile home dealers and salespersons were found in Chapter Trans 144.

Chapters Trans 140 and 144 are not being repealed by the Department because the Department of Transportation has amended those chapters to regulate recreational vehicle dealers and salespersons which are licensed by the Department of Transportation, Division of Motor Vehicles.

Honorable Fred A. Risser
Honorable Ben Brancel
October 16, 1997
Page 2

Enclosed are copies of the Legislative Council staff clearinghouse reports. All of the comments of the Clearinghouse have been addressed in the rules. A public hearing was held on April 24, 1997, in Madison, at which Scott Slattery of the Wisconsin Manufactured Housing Association appeared in opposition to the rules. Attached is a summary of the testimony received by the Department at that hearing. In addition to the testimony provided at the hearing, written comments (attached) were also received from Terry Funk of Future Homes. All of the comments have been addressed in an attached summary.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark D. Bugher', with a long horizontal flourish extending to the right.

Mark D. Bugher
Secretary

cc: Revisor of Statutes
Joint Committee for Review of Administrative Rules

PROPOSED ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Wisconsin Department of Administration proposes an order to create Chapter Adm 66.

Analysis prepared by the Department of Administration:

Statutory Authority: ss. 16.004(1) and 218.01(5)(c), Stats.

Statutes Interpreted: ss. 218.01(5), 218.11(3), Stats.

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4. A licensed realtor involved in a manufactured home sale solely as a result of a real estate transaction including the manufactured home and the real estate site on which the manufactured home is located.

(b) A person not excluded by par. (a) who sells two or more new or used manufactured homes in any one calendar year.

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(a) Assets.

(b) Liabilities.

(c) Net worth.

(d) The signature of one of the corporate officers, partners or owners.

(e) The name of any bank or financial institution used by the applicant.

(f) A schedule of securities owned, if any.

(g) A schedule of all real property held, its fair market value, book value, and the amount and terms of any indebtedness.

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(3) RECEIVABLES. When a substantial portion of the assets of an entity are in the form of receivables from another individual, partnership, or corporation, all or part of the receivables shall be discounted in considering the net worth of the applicant. In order to evaluate the quality of a receivable, a financial statement from the individual, partnership or corporation shall be required. In no case will the department discount factory receivables.

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(5) CERTAIN ASSETS NOT TO BE CONSIDERED. The department shall not consider the following assets in evaluating the financial statement of an applicant:

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(c) Any intangible asset values.

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(e) All other assets subject to prior liens, security arrangements or other pledges.

Adm 66.05 LIABILITY REPORTING. (1) REPORTING. All liabilities and contingent liabilities shall be reported. The terms, amounts and conditions of any major liabilities shall be separately scheduled. The schedule shall list the names of individuals or institutions that hold the debt, the amount of the debt and the terms of repayment. A list of customers and the amounts on deposit with the dealer shall be attached to the financial statement.

(2) RATIO ANALYSIS. A ratio analysis comparing liabilities with assets shall be used to evaluate a dealer's financial potential. If current liabilities exceed current assets, the department may deny, suspend or revoke a dealer's license. An exception to this subsection shall be made when the current ratio is less than 1 to 1 solely due to the manner the dealership has chosen to account for leasing operations.

Adm 66.06 NET WORTH REPORTING. (1) **TREASURY STOCK.** Treasury stock held by a corporation shall be reported separately on the balance sheet and clearly labeled as treasury stock.

(2) **PREVIOUS PROFIT.** Profit from the previous period of operations shall be reported separately in the net worth section of the balance sheet.

(3) **NEGATIVE NET WORTH.** A financial statement with a negative net worth is evidence of a lack of financial ability to conduct business and the license shall be denied or revoked.

Adm 66.07 TYPES OF ENTITIES. (1) **SOLE PROPRIETORSHIPS.** A sole proprietorship shall report the entire value of assets jointly owned by the sole proprietor and by one or more persons on its financial statement. The financial statement shall be signed by the sole proprietor.

(2) **PARTNERSHIPS.** Partnerships shall submit a statement for the partnership as a whole and individual statement for each of the general partners. If the partnership agreement provides for anything other than an equal sharing by the partners, it shall be prominently noted on the statements. The provisions of sub. (1) relating to the listing of jointly owned assets also apply to this subsection.

(3) **CORPORATIONS.** A corporation shall submit a financial statement. A financial statement of a controlling corporation, parent corporation, or an interlocking corporation may be submitted but shall not be substituted for the financial statement of the corporate

(4) **LIMITED LIABILITY COMPANIES.** A limited liability company shall submit a financial statement and a copy of its currently effective operating agreement, or if no operating agreement is in effect, or if the operating agreement does not list each member's contribution, a statement of the value of each member's contribution to the limited liability company.

Adm 66.08 COPIES REQUIRED. Dealers shall file their statements in duplicate. The department shall forward the duplicate copy to the co-licensor, the department of financial institutions.

Adm 66.09 GENERAL REQUIREMENTS. (1) **OPERATING STATEMENT.** The department may require a dealer to submit an income statement or other financial information for any of the following:

(a) An initial license.

(b) Renewal of a license.

(c) A change in the licensee.

(d) If any questions arise regarding the dealer's financial condition.

(2) ACCEPTABLE NET WORTH. (a) The following table shall be used in determining the acceptable minimum level of net worth of an applicant:

Annual Home Sales Volume

<u>Number of Homes Sold Per Year</u>	<u>Amount</u>
New Dealer	\$25,000
1-20	\$25,000
21-50	\$40,000
51-75	\$65,000
76-up	\$100,000

(b) The department may deny the license of any applicant who fails to meet the net worth criteria set out in par. (a).

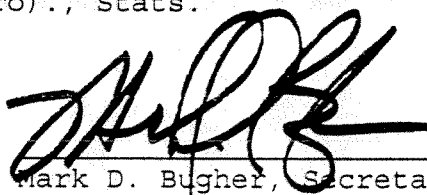
Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the department has determined that the proposed rule will not have any adverse impact on small businesses.

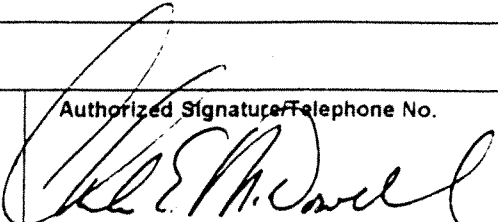
This rule shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro) ., Stats.

Dated

October 14, 1997



Mark D. Bugher, Secretary
Department of Administration

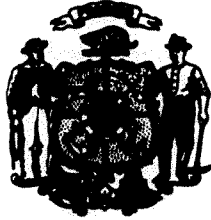
FISCAL ESTIMATE DOA-2048 (R10/92)		<input type="checkbox"/> ORIGINAL <input checked="" type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL		1996 Session
		LRB or Bill No./Adm. Rule ADM 66-68		Amendment No. if applicable
		Subject Transfer of mobile home regulation administrative rules from DOT to DOA under the Division of Housing, including increase of dealer fees.		
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation. <input type="checkbox"/> Increase Existing Appropriation <input checked="" type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation			<input type="checkbox"/> Increase Costs - May be possible to absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs	
Local: <input type="checkbox"/> No local government costs 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory			3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Governmental Units affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> VTAE Districts				
Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Ch. 20 Appropriations s. 20.505(7)(ji)		
Assumptions Used in Arriving at Fiscal Estimate <p>The regulation of mobile home dealers was transferred from the DOT to DOA, Division of Housing (DOH), beginning fiscal 1993 in an effort to centralize mobile home programs under one office. Since then DOA has had until now to carry out the routine, administrative matter of transferring the administrative rules from DOT to DOA. Three DOT chapters covered the regulation of mobile home dealers: Trans 140, 141, & 144. To accomplish the transfer three new DOA rules are created under this proposal: Adm 66, 67, & 68.</p> <p>The new Adm rule language is identical to the language used under the old Trans chapters with the exception of Chapter Adm 68, which defines the fees that dealers must pay. The new rule proposes a dealer fee increase.</p> <p>Since DOH took over the responsibility of administering the mobile home dealer program the fund has been inadequately funded due to insufficient fee revenue to cover the costs necessary to administer the program. Fund shortfalls in FY 93 and FY 95 have been prevented through cost shifts or by using limited GPR funds. To eliminate the annual program funding deficiency, the new rule proposes that dealer fees be increased.</p> <p>Under the existing rule dealers with two salespeople would pay \$266, under the new rule they would pay \$382, or an additional \$116 every two years. On average the change results in an additional \$58 per year per dealer. Assuming 158 dealers, DOH estimates that the new fees would generate an additional \$9,164 annually (158 x 58), which is the amount needed to meet the costs required to administer the program based on FY 98 projections.</p>				
Long-Range Fiscal Implications None				
Agency/Prepared by: (Name & Phone No.) Ryan Gill, 6-6497		Authorized Signature Telephone No.  Charles E. McDowell 7-3836		Date July 16, 1997

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 96-164

AN ORDER to create chapter Adm 66, relating to financial qualifications of manufactured home dealer license applicants.

Submitted by **DEPARTMENT OF ADMINISTRATION**

10-21-96 RECEIVED BY LEGISLATIVE COUNCIL.
11-15-96 REPORT SENT TO AGENCY.

RNS:RW:kjf:jt

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES ☐ NO ☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES ☒ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES ☐ NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES ☒ NO ☐

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES ☒ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES ☐ NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES ☐ NO ☒

WISCONSIN LEGISLATIVE COUNCIL STAFF

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CLEARINGHOUSE RULE 96-164

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

- a. Section Adm 66.02 (1) should be preceded by introductory material that states "In this chapter:".
- b. In the second sentence of s. Adm 66.02 (6), "shall" should replace "will." In s. Adm 66.05 (1), "shall" or "may" should replace "should."
- c. In order to preserve alphabetical order, the definition of "mobile home" in s. Adm 66.02 (7) should follow s. Adm 676.02 (8).
- d. The term "GAAP" should be defined in s. Adm 66.02 as "generally accepted accounting principles" rather than being defined parenthetically in s. Adm 66.03 (1). [s. 1.01 (6) and (8), Manual.]
- e. In the third sentence of s. Adm 66.05 (2), "subsection" should replace "section," and "made" should be inserted after "be."

4. Adequacy of References to Related Statutes, Rules and Forms

- a. In s. Adm 66.03 (1), the cite to "s. 227.016" should be "s. 227.114 (1) (a), Stats."
- b. The rule does not repeal ch. Trans 140. Is this intentional? See Clearinghouse Rule 96-165.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Adm 66.02 (8) (intro.), the phrase "any of the following" should be inserted after the word "means."

b. Under s. Adm 66.03 (3), it is not clear whether a misstatement on a financial statement requires denial or whether denial is permissive. Compare this phrase with the provision in s. Adm 66.06 (3) which states that if there is a negative net worth, "... the license shall be denied or revoked." This could be clarified by substituting ", the department may deny or revoke the license" or ", the department shall deny or revoke the license" for the last phrase in s. Adm 66.03 (3).

c. In s. Adm 66.04 (4), the term "floor planned" should be reviewed to determine whether its meaning is so commonly understood that it does not need a separate definition.

d. The second sentence in s. Adm 66.04 (4) is not clear; use of the present tense could help, but even then it appears that the sentence is either not properly placed or not properly drafted.

e. Would s. Adm 66.04 (5) (e) allow consideration of assets that are subject to prior liens, security arrangements or other pledges that are not for the full value of the assets?

f. Under s. Adm 66.05 (2), the second sentence should be redrafted; as written, it is not clear. One possibility to clarify the sentence would be to rewrite it to read as follows: "If current liabilities exceed current assets, the department may" See comment 5. a. regarding use of "shall be grounds."

g. In s. Adm 66.09 (1), an applicant must submit an income statement or other financial statement, if "required by the department." How will the department determine whether to require such a submission?

h. The table included in s. Adm 66.09 (2) (a) could be improved in layout and clarity. For example, the headings dealing with the number of annual sales could be labeled; the table could be set up to run vertically instead of horizontally for ease of reference. Also, two categories overlap--"11-50" and "50-150"--so that if there are exactly 50 annual sales, a dealer is in two different categories. In the material preceding the table, "table" should replace "guideline" and it may be helpful to a reader to insert "minimum" before "level."

i. Is there a need for an applicability section to clarify initial application of the new rule?

Summary of DOA Public Hearing
For Adm 66, 67 and 68
April 24, 1997

In attendance: Scott Slattery, Wisconsin Manufactured Housing Association (WMHA), appearing in opposition.

Mark Saunders, Lee Martinson, Terri Lenz and Gary Gorlen of DOA.

Listed below is a summary of the testimony presented by Mr. Slattery of the WMHA and the Department's responses.

Comments regarding Adm 66

1. The former Trans 140 referenced that the rule applied to mobile home dealers who were selling recreational vehicles - in 218.11(3) - in licensing for mobile homes relating to the sale of recreational vehicles. The question was raised whether the Department is creating a whole new body of regulation for the industry or if it a transfer of regulations?

Department's Response to No. 1: The regulations in Trans 140 for the mobile home program transferred to the Department of Administration from the Department of Transportation. The Department is adopting new standards based on the former Chapters Trans 140, 141 and 144.

2. A member of the WMHA indicated that they sell both modular and manufactured homes and if they sell only modular homes, there is no financial requirement in Adm 66. Is there any public policy rationale for treating manufactured homes differently than modulars?

Department's Response to No. 2: The Department of Commerce, Division of Safety and Buildings regulates modular homes and the manufacture of "manufactured homes" pursuant to Chapter 101 of the Wisconsin Statutes. The Department of Administration regulates and licenses dealers of manufactured home. In short, the Department has no jurisdiction over modular homes. This is the scheme provided by the Legislature which the Department must follow.

3. In Adm 66.03(1), the word "may" was changed to "shall" making it mandatory to provide all of the items listed on the financial sheet. What is the reason for this change?

Department's Response to No. 3: The Department has determined that applicants must provide all of the items listed in Adm 66.03(1)(a) through (g), in order to properly evaluate applicants; therefore, the "may" has been changed to "shall" to make this information mandatory.

4. Adm 66.08 references only mobile home dealers. Suggest adding mobile or manufactured home to be consistent with the rest of the code.

Department's Response to No. 4: The words "mobile home" have been deleted in Adm 66.08. The section now applies to "dealers" as defined in Adm 66.02(8).

5. In Adm 66.09(2), the Department eliminated the option of a bond. The Association believes that under certain circumstances there may be a need for a bond in order to pay off judgments. An example would be a long-time dealer who has substantial assets but because of how the books are handled, it shows little or no net worth. The Association would like to go to bonding.

Department's Response to No. 5: The Department agrees that the bonding option would be a good idea if there was also a review process for claims and a hearing examiner for handling disputed claims. However, the department is not equipped for a bonding process and, therefore, suggests another option for responding to this concern. The Department has amended Adm 66.09(2)(a) to reduce the financial statement requirements for the number of homes sold and net worth requirements.

Comments Regarding Adm 67

1. In Adm 67.03, the language regarding relocation was eliminated and placed in Adm 67.07. The Association requests moving the language regarding relocation back to Adm 67.03.

Department's response to No. 1: The rule has been amended as requested.

2. In Adm 67.04(1)(f), homes that go onto private property do not pay a sales tax but it is put into a use tax. The dealer can't disclose the sales tax per DOR regulations. In addition, there is no title or title fees for homes on private property. Recommends adding "if applicable" to the sales tax and titling section.

Department's response to No 2: The requested language has been added to this section.

3. Adm 67.04(4), includes a section regarding "cooling off period" which appears to create a 3 day right to cancel on any sale (such as a park listing). Recommend moving language to Adm 67.07(5) under "temporary sales locations."

Department's response to No. 3: The rule has been amended as requested.

4. Recommend adding the words " if applicable" in Adm 67.07(6)(c), because the MV 1 and MV 11 title and registration forms do not need to be completed for realty transactions, which are over 50% of the sales, and title fees are not assessed.

Department's response to No. 4: The requested language has been added to this section.

5. In Adm 67.07(7), recommend deleting the word " books" and making he word " record" plural.

Department's response to No. 5: The language has been amended as requested.

Comments regarding Adm 68

The Association reviewed the fees and it appears there is a segregation of programs but they are co-mingled. It appears there is some evidence that the dealer program has a smaller pool of revenues. The Association would like the Department to justify the large increase.

The Association objects to the large increase in salesperson fees from \$8 to \$50. The Association used Steenberg Homes as an example of a dealership with a large number of salespeople who would be impacted more. They also used the example of modular housing which doesn't have licensing fees for salespersons. The Association stated that if there is a large increase in the registration and plates, it would impact everyone equally, not just larger businesses with a higher number of salespeople. The Association also stated that the increase in branch and sublots is acceptable because it is outside of the regular scope of licensing.

The Association requests the Department to review the current amounts and bring them in line with normal increases. Most groups use the Consumer Price Index or other indexes for references.

The Association observed that the Department's mobile home programs combined have \$100,000 in revenue and as a whole, they are running at a surplus. The industry just saw an increase in park fees and they feel many are getting socked. They request further justification for increases.

The Association is looking for evidence that general program revenue monies were used to supplement the mobile home programs and request

documentation to that effect. If such documentation exists, they would support the licensing function.

Department's response. The Mobile Home Program has been running a deficit since the program was transferred from the Department of Transportation. General purpose revenues have been supplementing the program and staffing has been reduced to ensure continued operation. Attached is a memo dated April 4, 1997, from Bev Tucker to John Eldredge, which provides a summary of the Mobile Home Program revenue and expenditure history.

In response to the concerns raised, the department revised the proposed fee schedule to reflect a higher increase in the dealer registration fee (original amendment was \$200, now \$230) and dropped the salesperson fees (original amendment was \$50, now \$26). These changes will result in a decrease in revenues of \$1,422 from the original amendment request. The fee increase will affect dealers across the board.

Summary of Written Comments
on Adm 66, 67 and 68
and Department's Response

1. Change the term "mobile home" to "manufactured home."

Department's Response to No. 1: "Mobile home" is the term used and defined by the Legislature in s. 218.10, Wis. Stats. However, for clarification, the rules include a definition for "manufactured home." See sections Adm 66.02(7), 67.02(6) and Adm 68.02(6).

2. The 3 day cooling off period should only apply to manufactured homes sold away from the dealership.

Department's Response to No. 2: The language relating to the cooling off period has been moved to Adm 67.07(5), in order to clarify that it applies only to sales away from the dealership, such as expos and trade shows.

3. Object to the proposed hike in license and registration fees.

Department's response to No. 3: The Mobile Home Program has been running a deficit since the program was transferred from the Department of Transportation. General purpose revenues have been supplementing the program and staffing has been reduced to ensure continued operation. Attached is a memo dated April 4, 1997, from Bev Tucker to John Eldredge, which provides a summary of the Mobile Home Program revenue and expenditure history.

The department has revised the original fee schedule to reflect a higher increase in the dealer registration fee (original amendment was \$200, now \$230) and dropped the salesperson fees (original amendment was \$50, now \$26). These changes will result in a decrease in revenues of \$1,422 from the original amendment request. The fee increase will affect dealers across the board.

CORRESPONDENCE/MEMORANDUM

State of Wisconsin
Department of Administration
Division of Housing

Date: April 4, 1997
To: John Eldredge
From: Bev Tucker
Subject: Mobile Home Dealers

FY96:

The Mobile Home Dealers annual legislative authority is \$37,000. The revenue received in FY96 was \$20,792. Combined with the prior year revenue carryover of \$6,533, provided a total of \$27,325 available. The FY96 expenses totaled \$27,628, creating a \$304 deficit. This does not include the \$2,000 of expenditures transferred out of dealers in April which would put the actual deficit at \$2,304.

FY95:

In FY95 revenue of \$24,714 was received and combined with the FY94 carryover of \$9,902, had a total of \$34,616 available. The legislative authority was \$37,000. Total expenses were \$28,083 leaving a balance of \$6,533.

FY94:

Revenues received in FY94 were \$23,982 and with the negative carryover from FY93 of \$913 totaled \$23,069 available. The legislative authority was \$34,000. Expenditures in FY94 totaled \$13,167 leaving a balance of 9,902.

FY93:

This was the first year the program was in DOA. Revenues of \$21,430 were received. Legislative authority was \$31,000. The total expenditures of \$22,343 created a deficit of \$913.

The low or no deficits in each fiscal year is deceiving. In the first three fiscal years many of the mobile home costs were picked up by the divisions GPR Admin budget. It is difficult to say what these costs were without spending a lot of time researching it. In addition, we were very careful in keeping the budget to be within the projected revenue. The costs to actually effectively run the program are not necessarily what we budgeted.

cc Terri Schmidt

DOA Public Hearing for
ADM 66, 67, 68

April 24, 1997

REGISTRATION FOR TESTIMONY

Name: Scott Slater
Address: 202 STATE ST.
Phone: 608-255-3131
Representing: WI MANUFACTURED HOUSING ASSOC.

Please place a check mark by the appropriate statement.

- () Appearing in favor.
(☒) Appearing in opposition.
() Appearing for informational purposes only.

FUTURE HOMES
W6474 MOON SHADOW DRIVE
GREENVILLE, WI 54942
(414) 730 2594
(414) 757-1025 FAX

Ms. Donna Sorenson
Department of Administration
P.O. Box 7864
Madison, WI 53707-7864

Dear Ms. Sorenson:

Enclosed are some comments regarding the proposed changes in the mobile home dealer regulations:

- A. Change the term "MOBILE HOME" to "MANUFACTURED HOME". This updates the terminology within our industry.
- B. ADM 67.03 Advertising and Sales Representations:
 - a. Update term "USED" to "PRE-OWNED". More inline with our industry.
- C. ADM 67.05 Selling Agreements:
 - a. #4 - Cooling off Period - There should not be a 3-day cooling off period on manufactured homes sold away from the dealership. My reasoning; first of all customers are coming to us, we are not going door to door selling. A dealer who sells only Consignment Homes would face a hardship; first to his own dealership and second to his customer who he is the acting agent for. Furthermore, if people decide to sell their home on their own they would not be subjected to this 3-day cooling off period so why bother listing the home with a dealership. Again, the customer initiated the sale by calling or coming into the dealership therefore it shouldn't matter where the sale is consummated. All consignment sales are usually sold in the home when the home is consigned or set up in a park.
- D. ADM 68.04 License and Registration Fees:
 - a. I am against the proposed hike in fees. The current fees are already substantial. The percentage hike that is proposed is way too high. This is more like a penalty to dealerships and salespersons than the actual cost of doing business. Perhaps the funds that are needed to meet your projections could be obtained through other sources or revenues.

These are my views and suggestions which I hope would be considered and would be equitable to all parties concerned.

Sincerely,

TERRY FUNK, OWNER
FUTURE HOMES



Wisconsin Department of Transportation

Tommy G. Thompson
GovernorCharles H. Thompson
SecretaryDIVISION OF MOTOR VEHICLES
4802 Sheboygan Avenue
P.O. Box 7948
Madison, WI 53707-7948

November 13, 1992

Terry Funk
Future Homes
W 6490 Greenville Rd
Appleton, Wisconsin 54915

Dear Mr. Funk:

Thanks for your follow up letter to your original inquiry of June 1, 1992. I apologize that you've not received a response any sooner.

You need to know when a 3-day right to cancel applies to the sale of a mobile home offered for sale in a park. The answer is as follows:

The 3-day right to cancel does not apply anytime the customer initiates the sale by contacting the dealer at the dealership regardless of where the sale is consummated.

The 3-day right to cancel does not apply anytime the dealer initiates the sale with a particular customer and consummates the sale at the dealership.

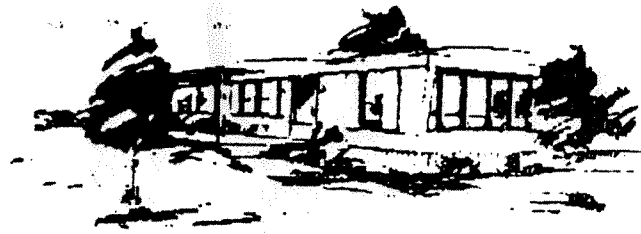
The 3-day right to cancel does apply anytime the dealer initiates the sale with a particular customer and consummates the sale away from the dealership.

If I understand the situation you've described in the letter, the 3-day right to cancel does not apply because the customer initiated the sale by calling you at the dealership. When that happens, it doesn't matter where the sale is consummated.

We tried to recognize the special situations when there wasn't a straight yes or no answer to when the 3-day right to cancel applies, and further explain those situations below the chart. It wasn't as clear as we'd hoped it would be. I hope this explanation clarifies the situation for you. If you've got more questions, please feel free to give me a call at (608) 267-0404.

Sincerely,

Joan Loden
Supervisor
Business Licensing, Dealer Section



Future Homes

W6474 Moon Shadow Drive
GREENVILLE, WISCONSIN 54942
(414) 730-2594 • Fax: (414) 757-1025

TRANSMITTAL COVER LETTER

NAME Donna Sorenson

COMPANY Dept. of Administration

FROM Terry Funk

DATE 4.25.97

TOTAL PAGES (INCLUDING THIS COVER PAGE) 2

MESSAGE My Future Home Views.

on 3 PM call - E can

See Dealers going AGAINST

EACH other. This happens

Now.

RESPONSE REQUIRED

YES **BY FAX** **BY LETTER** **BY PHONE**

NO ✓